

REMARKS

Favorable reconsideration of the present patent application is respectfully requested in view of the foregoing amendments and the following remarks.

In this Amendment claims 52-55 are added, claims 42, 45 and 48 are amended, and claims 46-47 are canceled (claims 1-27 were previously canceled). As a result, claims 28-45 and 48-51 are now pending in the application. Claim 42 is amended to correct a typographical error. Independent claim 45 is amended to incorporate features of dependent claims 46 and 47, both of which are now canceled.

In the non-final Office Action of November 13, 2007, claims 28-51 are rejected under 35 U.S.C. §103(a) in view of U.S. Patent 6,211,870 (Foster) and further in view of U.S. Patent 6,234,707 (Humpleman). It is noted with appreciation that the non-statutory obviousness-type double patenting rejection in view of U.S. Patent 6,690,392 has been withdrawn in response to the filing of the Terminal Disclaimer.

§103 Rejection in view of Foster / Humpleman

The §103 rejection of claims 28-51 in view of the Foster / Humpleman hypothetical combination is traversed for at least the following reasons.

The present invention involves the creation of macro commands for a convergence system having multiple components, at least one remote control, and at least one user interface other than the remote control. The user interface other than the remote control may be keyboard functions, computer mouse functions, or other types of user interface functions aside from those of the remote control. The Background discusses conventional systems that allow users to select

a sequence of remote control commands and store the commands in a macro of the remote control. However, the conventional devices are limited to macros comprising the remote control commands which are associated only with the remote control itself for controlling the components—and not user interface commands. This is the type of system described in the Foster patent, as acknowledge in the pending Office Action. However, the Office then goes on to propose combining the Humpleman patent to Foster in a hypothetical combination. It is respectfully submitted that Foster teaches away from being altered in the manner of the Humpleman patent for at least the following reasons.

Foster Teaches Away from Humpleman

According to MPEP §2145 it is improper to combine references where the references teach away from their combination:

It is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983) (The claimed catalyst which contained both iron and an alkali metal was not suggested by the combination of a reference which taught the interchangeability of antimony and alkali metal with the same beneficial result, combined with a reference expressly excluding antimony from, and adding iron to, a catalyst.).

It is respectfully submitted that the Foster patent teaches away from being combined with the Humpleman patent.

The Foster system involves a computer-controlled hand held remote unit that can be programmed with commands from a database of commands. Foster also discusses remote control development software that can be programmed to learn the commands of other remote control devices. However, the Foster patent does not disclose identifying or assigning user interface commands (not from a remote control) such as the “at least one user interface other than

the remote control,” as recited in claims 28 and 35. The Foster system is concerned with incorporating the commands from other remote controls into Foster’s universal remote control, as explained in the following passages from Foster:

One solution which has found some acceptance in the market is the universal remote control unit. A universal remote control unit consolidates multiple remote control units and, it is hoped, improves their usability. Typical universal remote control units can learn the commands of other Remote control units, either through pre-programmed lists of consumer electronics devices or by teaching the universal remote control unit each command which the user might wish to have available on the universal Remote control unit.¹

One of the common problems with universal remote control units, and a problem which is especially severe with the most flexible and programmable remote control units, is programming.²

The previously described problems are solved [by the Foster] remote control unit which has the ability to control nearly any device **controllable from a remote**, yet is easily programmed.³

Foster addresses commands from other remote control devices, but does not provide any way of learning commands of a “user interface other than the remote control,” as recited in claims 28, 35 and 42. Consequently, even if user interface commands from the Humpleman system could be identified and assigned to the Foster device, it is believed that the Foster system would have no means of assimilating those commands. Therefore, Foster teaches away from being combined with the Humpleman patent.

Accordingly, it is respectfully submitted that the Foster patent does not disclose the features of the claimed invention. Therefore, withdrawal of the pending §103 rejection is requested.

¹ Foster, col. 2, lines 9-19.

² *Id.* at col. 2, lines 57-60.

³ *Id.* at col. 3, lines 10-12 (emphasis added). See col. 7, lines 62-67.

New Claims

Newly added dependent claim 52 recites “detecting an input command sequence being repeated a predetermined threshold number of times; and providing a prompt proposing that a new macro be defined for said input command sequence in response to said input command sequence being repeated the predetermined threshold number of times.” Newly added claim 53 includes similar features. Support for this feature can be found throughout the disclosure, for example, at page 19 of the specification. It is respectfully submitted that this feature is neither taught nor suggested by the prior art.

Newly added claims 54-55 each recite “converting said at least one user interface command into machine commands required by an operating system.” Support for this feature can be found throughout the disclosure, for example, at page 20 of the specification. It is respectfully submitted that this feature is neither taught nor suggested by the prior art.

Deposit Account Authorization / Provisional Time Extension Petition

It is believed that no extension of time is needed, and the accompanying Fee Transmittal attends to all fees required for this filing. However, to the extent necessary, a provisional petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-0439 and please credit any excess fees to such deposit account.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. However, in the event there are any unresolved issues, the Examiner is kindly invited to contact applicant's representative, Scott Richardson, by telephone at (571)970-6835 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



Scott Charles Richardson
Reg. No. 43,436

The Brevetto Law Group, PLLC
107 S. West Street, #765, Alexandria, Virginia 22314
telephone: (571)970-6835

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